Challenge to Removal from Ballot

Singleton v. Alabama Democratic Party (Mark E. Fuller, M.D. Ala. 2:04-cv-1027)

A candidate filed a federal action because a state court had removed her name from the ballot. The federal court denied her relief because she had not filed the action until after absentee voting had begun and because under the *Rooker-Feldman* doctrine only the Supreme Court has appellate jurisdiction over state-court proceedings.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; laches; matters for state courts; section 5 preclearance; three-judge court; enjoining elections; enjoining certification.

One week before the 2004 general election, a Democratic candidate for trial judge in Alabama's district courts filed a federal action to have her name restored to the ballot.[1] The candidate's name was removed as a result of state-court action arising from a challenge based on her contributing $150 to the Republican incumbent.[2] The federal complaint, which also included two voters as plaintiffs, included an application for a temporary restraining order against proceeding with the election for the office.[3] Judge Mark E. Fuller denied the application on the day that it was filed, because the plaintiffs had not provided notice to the defendants.[4]

On October 28, after the plaintiffs had provided the defendants with notice, Judge Fuller held a telephone conference.[5] Again, on the day before the election, Judge Fuller denied the candidate immediate injunctive relief, because she had not filed the action to enjoin the election until after absentee voting had begun.[6]

A week after the election, the candidate moved for a temporary restraining order against certification of the election,[7] which Judge Fuller denied on

1. Complaint, Singleton v. Ala. Democratic Party, No. 2:04-cv-1027 (M.D. Ala. Oct. 26, 2004), D.E. 1.

2. Opinion at 3–10, *id.* (Mar. 30, 2005), D.E. 30 [hereinafter Mar. 30, 2005, Opinion]; Order at 1, *id.* (Nov. 1, 2004), D.E. 11 [hereinafter Nov. 1, 2004, Order]; *see* Robert K. Gordon, *Democrats Disqualify Judicial Candidate*, Birmingham News, Sept. 22, 2004.

3. Complaint, *supra* note 1.

4. Order, *Singleton*, No. 2:04-cv-1027 (M.D. Ala. Oct. 26, 2004), D.E. 2.

Tim Reagan interviewed Judge Fuller for this report by telephone on May 30, 2012. Judge Fuller resigned on August 1, 2015. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

5. Nov. 1, 2004, Order, *supra* note 2, at 2.

The election at issue was for an office in Jefferson County, Complaint, *supra* note 1, which is approximately one hundred miles north of Judge Fuller's court. Interview with Hon. Mark E. Fuller, May 31, 2012.

6. Nov. 1, 2004, Order, *supra* note 2, at 2–3.

7. Temporary-Restraining-Order Motion, *Singleton*, No. 2:04-cv-1027 (M.D. Ala. Nov. 9, 2004), D.E. 13.

the following day.[8] On March 30, 2005, after full briefing, Judge Fuller dismissed the case.[9]

Judge Fuller considered very carefully whether the case should be heard by a three-judge district court.[10] The plaintiffs' claim that the procedure for removing her from the ballot had not been precleared pursuant to section 5 of the Voting Rights Act,[11] however, was rebutted by undisputed evidence to the contrary,[12] so a three-judge court was not needed.[13] Judge Fuller also carefully considered application of the *Rooker-Feldman* doctrine,[14] which states that among federal courts only the Supreme Court has appellate jurisdiction over state-court proceedings.[15]

On April 13, 2006, the court of appeals affirmed Judge Fuller's dismissal.[16]

8. Order, *id.* (Nov. 10, 2004), D.E. 14.

9. Mar. 30, 2005, Opinion, *supra* note 2.

10. Interview with Hon. Mark E. Fuller, May 31, 2012.

11. *See* Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437, § 5, 439, *as amended*, 52 U.S.C. § 10304 (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination and requiring that preclearance disputes be heard by a three-judge district court).

On June 25, 2013, the Supreme Court declined to hold section 5 unconstitutional, but the Court did hold unconstitutional the criteria for which jurisdictions require section 5 preclearance. Shelby County v. Holder, 570 U.S. 529 (2013).

12. Mar. 30, 2005, Opinion, *supra* note 2, at 18.

13. *Id.* at 17.

14. Interview with Hon. Mark E. Fuller, May 31, 2012; Mar. 30, 2005, Opinion, *supra* note 2, at 11–13.

15. D.C. Ct. App. v. Feldman, 460 U.S. 462 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); *see* Martin A. Schwartz, Section 1983 Litigation 21–24 (Federal Judicial Center 3d ed. 2014).

16. Order, Singleton v. Ala. Democratic Party, No. 05-13045 (11th Cir. Apr. 13, 2006), 2006 WL 952335.